

REMARKS/ARGUMENTS

Claims 1-18 are pending. Claims 1-17 were rejected as failing to comply with the written description requirement. Claims 1-18 were rejected as failing to comply with the enablement requirement. Claims 1-3, 5-9, and 11-18 were rejected as anticipated by U.S. Patent No. 5,275,287 to Thompson. Claims 1-3, 5-9, and 11-18 were rejected as anticipated by U.S. Patent No. 4,489,845 to Aichinger et al. or U.S. Patent No. 4,090,631 to Grussen. Claims 4 and 10 were rejected as unpatentable over Thompson or Aichinger or Grussen.

Written Description and Enablement Issues

Applicant respectfully disagrees that the written description and enablement requirements are not complied with. The specification clearly describes at page 12, lines 15-21, that the second sealing element or stop 4 projects from the second portion 13 and cooperates with the internal surface of the first portion 9. It further states that in the region 14 where this cooperation takes place, the thickness of the material is considerably larger than in the rest of the closure. The drawings illustrate the second sealing element 4 as being in the region 14 of largest thickness. Thus, the specification does describe the second sealing element presenting a thickness considerably larger with respect to the rest of the closure.

The Office Action also contended that it does not make sense that the first, second, and third sealing elements are made of the same material, but the first and third are deformable while the second is non-deformable. Actually, this makes perfect sense and would be understood by persons of ordinary skill in the art.

It must first be recognized, as persons of ordinary skill would understand, that no material is absolutely non-deformable. As such, terms such as “deformable” and “non-deformable” would be understood as relative terms, not absolute ones. Given that understanding, a person of ordinary skill would learn from the specification that the first and third sealing elements 3, 5 are (relatively) deformable as shown in Figure 3. The

person would learn from the figures that the elements 3, 5 are relatively thin and are configured with respect to the direction of force exerted on them by the bottle neck 2 so that the bottle neck can deform them. In contrast, the person would learn from the figures and from the specification (e.g., p. 12, lines 15-21) that the second sealing element 4 is (relatively) non-deformable, because it has a greater thickness than the rest of the closure and is configured in such a manner that the straight-upward force exerted by the bottle neck would cause relatively little deformation in comparison with that of the first and third sealing elements.

In light of this understanding that a person of ordinary skill in the art would gain from the disclosure, Applicant respectfully submits that the written description and enablement requirements are complied with. A person of ordinary skill is given ample knowledge in the specification and figures to be able to make a closure that works as described in the specification. Thus, Applicant respectfully requests that the rejections under 35 U.S.C. 112, first paragraph, be withdrawn.

Prior Art Rejections

Thompson discloses a closure having eight circumferentially spaced stops 43 formed between the top and the skirt of the closure, projecting into the annular gap between the thickened part of the skirt and the sealing portion. Each stop 43 has an angular extent of 5° (col. 2, lines 35-38). Thus, collectively the stops cover only 40° of the full 360° circumference, and they are spaced 45° apart. Hence, it is evident that the stops cannot exert a bending moment in order to limit deformation of the closure, as in the invention of Claim 1. Their function is merely to act as stops preventing the closure from being screwed onto the container excessively.

Aichinger discloses a closure having a great elasticity to improve sealing. The cap top has elasticity so that this produces a contraction of the closure particularly in the outer area, eliminating a clearance α between the closure and neck. The comparison between Figure 1 (closure out of the container) and Figure 2 (closure screwed onto the container) of this patent clearly illustrates the deformation that occurs.

In this regard, it is important to note that the closure of the claimed invention works contrarily, in that the second sealing element exerts a bending moment for the closure not to deform.

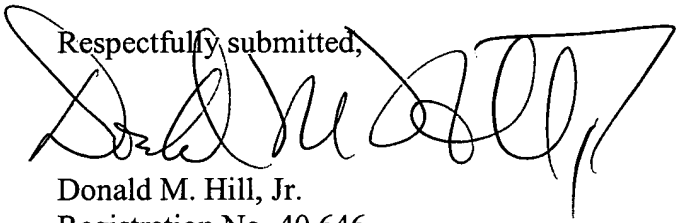
Finally, Grussen discloses a closure where the second sealing element is not a non-deformable stop, but a thin and deformable circular projection. Grussen does not disclose a sealing element that act as a stop and exerts a bending moment in order to limit deformation of the closure.

For the above reasons, Applicant respectfully submits that the cited references do not teach or suggest the invention defined in the present claims.

Conclusion

Based on the above remarks, it is respectfully submitted that the application is in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

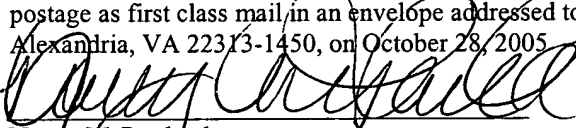
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 28, 2005.


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